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July 7, 2009

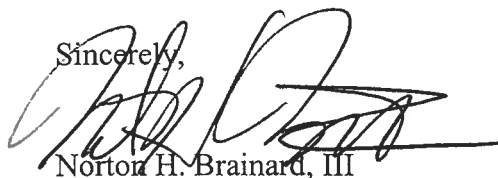
Lester A. Heltzer, Executive Secretary
National Labor Relations Board
1099 14th St. N.W.
Washington, DC 20570-0001

Re: Council of Chapters of AAUP at University of Medicine
and Dentistry of New Jersey
Case 22-RC-13014

Dear Mr. Heltzer:

Attached for filing, please find the Petitioner's Statement in Opposition to the Employer's Request for Review in the above matter. Attached is a Certification of Service showing service via e filing to J. Michael Lightner, Regional Director of Region 22 and Mark D. Schorr, counsel for the Employer via e-mail delivery.

Sincerely,



Norton H. Brainard, III

Cc: J. Michael Lightner, Regional Director of Region 22 (via e-file)
Mark D. Schorr, Esquire (via e-mail)

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**Council of Chapters of AAUP
at UNIVERSITY OF MEDICINE
AND DENTISTRY OF NEW JERSEY**

EMPLOYER

AND

CASE NO. 22-RC-13014

**TEAMSTERS LOCAL UNION NO. 115 A/W
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

PETITIONER

**Statement of Opposition to The Employer's Request for Review Pursuant to
The Board's Rules and Regulations Section 102.67(f)**

This Statement is being filed in opposition the Employer's request for Review of the Decision of the Regional Director, J. Michael Lightner issued on June 23, 2009.

The Council for Chapters of AAUP at the University of Medicine and Dentistry(the Employer) employs three individuals which Teamsters Union Local No 115(the Petitioner) seeks to represent. They are Amy Reed, Senior Staff Representative, Robert Witowski, Labor Relations Representative, and Vatrice George, Administrative Assistant. The fourth individual of the Employer's staff, which the Petitioner does not seek to represent is Alex Bernstein, the Executive Director.

The Employer in its Request for Review misstates the decision of the Regional Director as containing a departure from Board precedent. In fact the opposite is true, the Regional Director clearly followed Board policy in the area of determining the confidential status of an employee.

The Board's policy for over 40 years has to "adhere strictly" to the definition of confidential employees.¹(DDE 9.) Petitioner would further add the rest of the language from B.F. Goodrich Co., 115 NLRB 722, 744(1956) as support of the Regional Director's adherence to Board precedent in this area of the law.

Upon further reexamination our holdings in the instant connection, we are still of the opinion expressed in the *Ford Motor Co.* case [66 NLRB 1317 (1946)] that **any broadening of the definition of the term "confidential" as adopted in that decision needlessly precludes employees from bargaining collectively together with other employees sharing common interests.** Consequently it is our intention herein and in future cases to adhere strictly to that definition and thus to limit the term "confidential" so as to embrace only those employees who assist and act in a confidential capacity to persons who formulate, determine, *and* effectuate management policies in the field of labor relations. (Emphasis added).

The Employer has a staff of four employees and it seeks to exclude three of the employees from representation on the basis they are confidential employees. The Board's policy stated above strictly forbids this broad type of application of the term of confidential employee. The only "confidential employee" of the employer in the instant case is the position of filled by Alex Bernstein, the Executive Director.

Confidential employees are employees who assist and act in a confidential capacity to persons who formulate, determine and effectuate management policies with regard to labor relations or regularly substitute for employees having such duties B.F. Goodrich, 115 NLRB 772 (1956)., affirmed in NLRB v. Hendricks County Electric Membership Corp., 454 U.S. 170 (1981). Further, Board precedent requires These considerations are to be "assessed in the conjunctive." Weyerhaeuser Co., 173 NLRB 1170 (1969).

The Employer disregards the language of the B.F. Goodrich case cited above, an employee who is to be considered a confidential employee must be currently working in that position. The Board will not consider the future duties an employee to determine whether the employee is to be classified as a confidential. American Radiator Corp., 119 NLRB 1715 (1958) The Regional Director correctly analyzed the job functions in light of Board precedent of each of the three employees concerned and found that they were not confidential employees.

¹ DDE refers to Decision and Direction of Election

Conclusion

For the reasons set forth herein, Petitioner requests the Board to deny the Employer's Request for Review in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Norton H. Brainard, III', written over a horizontal line.

Norton H. Brainard, III
Counsel for Petitioner
2833 Cottman Avenue
Philadelphia, PA 19149
215-335-2626

Date: July 7, 2009

CERTIFICATION

I, Norton H. Brainard, III do hereby certify that I have filed via e-filing a true copy upon the Employer's counsel, the foregoing Teamsters Union Local No. 115 Opposition to the Employer's Request for Review pursuant to the requirements of Section 102.114(i) of the Board's Rules and Regulations on July 7, 2009.

FILED VIA Electronic Filing

Lester A. Heltzer
Executive Secretary,
National Labor Relations Board
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Washington, DC 20570-0001

J. Michael Lightner, Regional Director
National Labor Relations Board
Region 22
20 Washington Place, 5th Floor
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And

SERVED VIA EMAIL

Mark D. Schorr, Esquire
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A handwritten signature in black ink, appearing to read 'Norton H. Brainard, III', written over a horizontal line.

Norton H. Brainard, III
Counsel for Petitioner